



April 3, 2007

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## ENGROSSED SENATE BILL No. 129

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DIGEST OF SB 129 (Updated March 29, 2007 12:57 pm - DI 96)

**Citations Affected:** IC 36-8; noncode.

**Synopsis:** Public safety employees. Requires a unit with a population of 7,000 or more to meet and confer with the representative of the unit's full-time police or fire department employees concerning pay issues and conditions of employment. Specifies that an employee may not be required to become a member of or pay dues to an employee organization. Specifies the procedure for an employer to terminate its duty to meet and confer. Provides that: (1) employees may not engage in a strike; and (2) a recognized representative that engages in or sanctions a strike loses the right to represent employees for at least ten years from the date of the action. Provides that an agreement between an employer and an employee organization may not require a unit to engage in deficit financing.

**Effective:** July 1, 2007.

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**Young R Michael, Waltz, Tallian**

(HOUSE SPONSORS — TYLER, HINKLE, FRIZZELL)

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January 8, 2007, read first time and referred to Committee on Pensions and Labor.  
February 15, 2007, amended, reported favorably — Do Pass.  
February 22, 2007, read second time, ordered engrossed.  
February 23, 2007, engrossed.  
February 26, 2007, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 13, 2007, read first time and referred to Committee on Labor and Employment.  
April 2, 2007, amended, reported — Do Pass.

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ES 129—LS 6207/DI 102+



April 3, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 129

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-8-22 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]:

4 **Chapter 22. Meet and Confer for Public Safety Employees**

5 **Sec. 1. This chapter applies after December 31, 2007.**

6 **Sec. 2. As used in this chapter, "employee" means a full-time**  
7 **employee of a police or fire department. However, the term does**  
8 **not include an employee in an upper level policymaking position.**

9 **Sec. 3. As used in this chapter, "employee organization" means**  
10 **an organization:**

11 **(1) that includes employees as members; and**

12 **(2) whose primary purpose is to represent the members of the**  
13 **organization on issues concerning grievances, wages, rates of**  
14 **pay, hours of employment, conditions of employment, or**  
15 **becoming an exclusive recognized representative.**

16 **Sec. 4. As used in this chapter, "employer" means a unit.**

17 **Sec. 5. As used in this chapter, "exclusive recognized**

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ES 129—LS 6207/DI 102+



representative" means an employee organization elected under section 9 of this chapter.

Sec. 6. As used in this chapter, "strike" means a:

- (1) work stoppage by two (2) or more employees to enforce compliance with demands made on an employer; or
- (2) temporary stoppage of work activities by two (2) or more employees in protest against an act or condition.

Sec. 7. (a) Except as provided in section 15 of this chapter, this chapter does not apply to an employer with a population of less than seven thousand (7,000).

(b) This chapter does not apply to an employer that has adopted by:

- (1) ordinance;
- (2) resolution;
- (3) amendment; or
- (4) executive order;

provisions and procedures that permit an employee to form, join, or assist an employee organization to bargain collectively.

(c) For:

- (1) a collective bargaining agreement; or
- (2) a memorandum of understanding;

entered into between an employer and an employee organization or a recognized representative before January 1, 2008, this chapter may not be construed to annul, modify, or limit the agreement or memorandum during the term of the agreement or memorandum.

Sec. 8. (a) All employees have the right to:

- (1) meet and freely assemble to discuss their interests as employees on the employees' own time;
- (2) form an employee organization on the employees' own time; and
- (3) join and assist an employee organization.

(b) The rights guaranteed under subsection (a) include the right to:

- (1) solicit membership;
- (2) join an employee organization to present the view of the employee; and
- (3) have dues deducted from employee wages and submitted to the exclusive recognized representative.

(c) An employee may not be required to:

- (1) become a member of; or
- (2) pay dues to;

an employee organization.

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1       **Sec. 9. (a) An employee organization is the exclusive recognized**  
 2 **representative of the employees of an employer if:**

3       **(1) before January 1, 2008, the employee organization was**  
 4 **recognized by the employer as the sole representative of the**  
 5 **employer's employees; or**

6       **(2) after December 31, 2007, the employee organization is**  
 7 **elected to be the exclusive recognized representative under**  
 8 **subsection (c).**

9       **(b) After December 31, 2007, an employer shall conduct an**  
 10 **election to determine an exclusive recognized representative if at**  
 11 **least thirty percent (30%) of the employees of the employer sign a**  
 12 **petition requesting such an election. The election shall be**  
 13 **conducted at least thirty (30) but not more than sixty (60) days**  
 14 **after the employer receives the petition.**

15       **(c) An employee organization becomes the exclusive recognized**  
 16 **representative of the employees of the employer if it receives more**  
 17 **than fifty percent (50%) of the votes cast in an election conducted**  
 18 **under subsection (b).**

19       **(d) An election under subsection (b) to determine an exclusive**  
 20 **recognized representative may not be conducted more often than**  
 21 **once every two (2) years.**

22       **Sec. 10. This chapter is not intended to circumscribe or modify**  
 23 **the existing right of an employer to:**

24       **(1) direct the work of the employer's employees;**

25       **(2) hire, promote, demote, transfer, assign, and retain**  
 26 **employees in positions;**

27       **(3) suspend, discharge, or otherwise discipline employees for**  
 28 **just cause;**

29       **(4) maintain the efficiency of governmental operations;**

30       **(5) relieve employees from duties because of lack of work or**  
 31 **for other legitimate reasons; or**

32       **(6) take actions that may be necessary to carry out the mission**  
 33 **of the employer in emergencies.**

34       **Sec. 11. An employer may not do the following:**

35       **(1) Interfere with, restrain, or coerce employees in the**  
 36 **exercise of the rights guaranteed under this chapter.**

37       **(2) Dominate, interfere with, or assist in the formation or**  
 38 **administration of an employee organization, or contribute**  
 39 **financial or other support to an employee organization.**  
 40 **However, an employer may permit employees to meet and**  
 41 **confer and represent employee interests during working**  
 42 **hours without loss of time or pay.**

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(3) Discriminate in regard to hiring or conditions of employment to encourage or discourage membership in an employee organization.

(4) Discharge or otherwise discriminate against an employee because the employee has filed a complaint, an affidavit, or a petition or has given information or testified under this chapter.

(5) Refuse to meet and confer in good faith with an exclusive recognized representative.

Sec. 12. (a) An exclusive recognized representative of the employees of an employer that elects to meet and confer with an employer must notify the employer in writing that the exclusive recognized representative intends to exercise its rights under this chapter.

(b) Except as provided by section 13 of this chapter, an employer who has received a written notice under subsection (a) shall meet and confer in good faith at reasonable times, including meeting in advance of the budget making process, to discuss issues and proposals regarding wages, hours of employment, and other conditions and terms of employment with the exclusive recognized representative.

Sec. 13. (a) An employer is not required to meet and confer with an exclusive recognized representative under this chapter unless the exclusive recognized representative has notified the employer in writing that the exclusive recognized representative elects to exercise its rights under this chapter.

(b) Notwithstanding subsection (a), an employer may elect to meet and confer and enter into an agreement under section 12 of this chapter even if the employer did not receive a written notice from an exclusive recognized representative.

(c) Notwithstanding any provision of this chapter, an employer may elect to terminate its duty to meet and confer with an exclusive recognized representative under this chapter if:

(1) after meeting and conferring with the exclusive recognized representative under section 12 of this chapter, the employer and the exclusive recognized representative are unable to reach a written agreement under this chapter; and

(2) at least fifty percent (50%) of the members of the legislative body of the employer vote to terminate the employer's duty to meet and confer with the exclusive recognized representative under this chapter and written notice of the action of the legislative body is given to the

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1 exclusive recognized representative.

2 (d) An exclusive recognized representative that receives a  
3 termination notice from an employer under subsection (c)(2) must  
4 wait at least one (1) year after the date the exclusive recognized  
5 representative receives the notice to notify the employer of the  
6 exclusive recognized representative's election under subsection (a)  
7 to exercise its rights under this chapter.

8 Sec. 14. (a) As used in this section, "deficit financing" means  
9 making expenditures that exceed the money legally available to an  
10 employer in any budget year.

11 (b) An employer may not enter into an agreement under section  
12 12 of this chapter that will place the employer in a position of  
13 deficit financing. An agreement is voidable to the extent that an  
14 employer must engage in deficit financing to comply with the  
15 agreement.

16 Sec. 15. (a) This section applies to employees of an employer  
17 regardless of population.

18 (b) An employee, an employee organization, or an exclusive  
19 recognized representative may not participate in or encourage  
20 participation in a strike against an employer.

21 (c) An employee engaging in a strike is subject to discharge by  
22 the employer as provided in IC 36-8-3-4.

23 (d) An exclusive recognized representative that engages in or  
24 sanctions a strike loses the right to represent the employees for at  
25 least ten (10) years after the date of the action.

26 (e) An employer may not pay an employee for days the  
27 employee is engaged in a strike.

28 Sec. 16. The term of any written agreement entered into under  
29 section 12 of this chapter may not exceed forty-eight (48) months.

30 SECTION 2. [EFFECTIVE JULY 1, 2007] (a) This section applies  
31 after December 31, 2007.

32 (b) This act does not:

33 (1) apply to or abrogate a collective bargaining agreement or  
34 memorandum of understanding; or

35 (2) preclude arbitration on a provision in a collective  
36 bargaining agreement or memorandum of understanding;  
37 in effect on December 31, 2007.

38 (c) This SECTION expires July 1, 2008.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 129, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 129 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 7, Nays 0.

## SENATE MOTION

Madam President: I move that Senator Waltz be added as second author and Senator Tallian be added as third author of Engrossed Senate Bill 129.

YOUNG R MICHAEL

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred Senate Bill 129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete "As used in this chapter, "employee" means a full-time" and insert "**This chapter applies after December 31, 2007.**".

Page 1, delete lines 6 through 17, begin a new paragraph and insert:

**"Sec. 2. As used in this chapter, "employee" means a full-time employee of a police or fire department. However, the term does not include an employee in an upper level policymaking position.**

**Sec. 3. As used in this chapter, "employee organization" means**

ES 129—LS 6207/DI 102+



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an organization:

- (1) that includes employees as members; and
- (2) whose primary purpose is to represent the members of the organization on issues concerning grievances, wages, rates of pay, hours of employment, conditions of employment, or becoming an exclusive recognized representative.

Sec. 4. As used in this chapter, "employer" means a unit.

Sec. 5. As used in this chapter, "exclusive recognized representative" means an employee organization elected under section 9 of this chapter.

Sec. 6. As used in this chapter, "strike" means a:

- (1) work stoppage by two (2) or more employees to enforce compliance with demands made on an employer; or
- (2) temporary stoppage of work activities by two (2) or more employees in protest against an act or condition.

Sec. 7. (a) Except as provided in section 15 of this chapter, this chapter does not apply to an employer with a population of less than seven thousand (7,000).

(b) This chapter does not apply to an employer that has adopted by:

- (1) ordinance;
- (2) resolution;
- (3) amendment; or
- (4) executive order;

provisions and procedures that permit an employee to form, join, or assist an employee organization to bargain collectively.

(c) For:

- (1) a collective bargaining agreement; or
- (2) a memorandum of understanding;

entered into between an employer and an employee organization or a recognized representative before January 1, 2008, this chapter may not be construed to annul, modify, or limit the agreement or memorandum during the term of the agreement or memorandum.

Sec. 8. (a) All employees have the right to:

- (1) meet and freely assemble to discuss their interests as employees on the employees' own time;
- (2) form an employee organization on the employees' own time; and
- (3) join and assist an employee organization.

(b) The rights guaranteed under subsection (a) include the right to:

- (1) solicit membership;

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(2) join an employee organization to present the view of the employee; and

(3) have dues deducted from employee wages and submitted to the exclusive recognized representative.

(c) An employee may not be required to:

(1) become a member of; or

(2) pay dues to;

an employee organization.

**Sec. 9. (a) An employee organization is the exclusive recognized representative of the employees of an employer if:**

(1) before January 1, 2008, the employee organization was recognized by the employer as the sole representative of the employer's employees; or

(2) after December 31, 2007, the employee organization is elected to be the exclusive recognized representative under subsection (c).

(b) After December 31, 2007, an employer shall conduct an election to determine an exclusive recognized representative if at least thirty percent (30%) of the employees of the employer sign a petition requesting such an election. The election shall be conducted at least thirty (30) but not more than sixty (60) days after the employer receives the petition.

(c) An employee organization becomes the exclusive recognized representative of the employees of the employer if it receives more than fifty percent (50%) of the votes cast in an election conducted under subsection (b).

(d) An election under subsection (b) to determine an exclusive recognized representative may not be conducted more often than once every two (2) years.

**Sec. 10. This chapter is not intended to circumscribe or modify the existing right of an employer to:**

(1) direct the work of the employer's employees;

(2) hire, promote, demote, transfer, assign, and retain employees in positions;

(3) suspend, discharge, or otherwise discipline employees for just cause;

(4) maintain the efficiency of governmental operations;

(5) relieve employees from duties because of lack of work or for other legitimate reasons; or

(6) take actions that may be necessary to carry out the mission of the employer in emergencies.

**Sec. 11. An employer may not do the following:**

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- (1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed under this chapter.
- (2) Dominate, interfere with, or assist in the formation or administration of an employee organization, or contribute financial or other support to an employee organization. However, an employer may permit employees to meet and confer and represent employee interests during working hours without loss of time or pay.
- (3) Discriminate in regard to hiring or conditions of employment to encourage or discourage membership in an employee organization.
- (4) Discharge or otherwise discriminate against an employee because the employee has filed a complaint, an affidavit, or a petition or has given information or testified under this chapter.
- (5) Refuse to meet and confer in good faith with an exclusive recognized representative.

**Sec. 12. (a)** An exclusive recognized representative of the employees of an employer that elects to meet and confer with an employer must notify the employer in writing that the exclusive recognized representative intends to exercise its rights under this chapter.

**(b)** Except as provided by section 13 of this chapter, an employer who has received a written notice under subsection (a) shall meet and confer in good faith at reasonable times, including meeting in advance of the budget making process, to discuss issues and proposals regarding wages, hours of employment, and other conditions and terms of employment with the exclusive recognized representative.

**Sec. 13. (a)** An employer is not required to meet and confer with an exclusive recognized representative under this chapter unless the exclusive recognized representative has notified the employer in writing that the exclusive recognized representative elects to exercise its rights under this chapter.

**(b)** Notwithstanding subsection (a), an employer may elect to meet and confer and enter into an agreement under section 12 of this chapter even if the employer did not receive a written notice from an exclusive recognized representative.

**(c)** Notwithstanding any provision of this chapter, an employer may elect to terminate its duty to meet and confer with an exclusive recognized representative under this chapter if:

- (1) after meeting and conferring with the exclusive recognized

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representative under section 12 of this chapter, the employer and the exclusive recognized representative are unable to reach a written agreement under this chapter; and

(2) at least fifty percent (50%) of the members of the legislative body of the employer vote to terminate the employer's duty to meet and confer with the exclusive recognized representative under this chapter and written notice of the action of the legislative body is given to the exclusive recognized representative.

(d) An exclusive recognized representative that receives a termination notice from an employer under subsection (c)(2) must wait at least one (1) year after the date the exclusive recognized representative receives the notice to notify the employer of the exclusive recognized representative's election under subsection (a) to exercise its rights under this chapter.

Sec. 14. (a) As used in this section, "deficit financing" means making expenditures that exceed the money legally available to an employer in any budget year.

(b) An employer may not enter into an agreement under section 12 of this chapter that will place the employer in a position of deficit financing. An agreement is voidable to the extent that an employer must engage in deficit financing to comply with the agreement.

Sec. 15. (a) This section applies to employees of an employer regardless of population.

(b) An employee, an employee organization, or an exclusive recognized representative may not participate in or encourage participation in a strike against an employer.

(c) An employee engaging in a strike is subject to discharge by the employer as provided in IC 36-8-3-4.

(d) An exclusive recognized representative that engages in or sanctions a strike loses the right to represent the employees for at least ten (10) years after the date of the action.

(e) An employer may not pay an employee for days the employee is engaged in a strike.

Sec. 16. The term of any written agreement entered into under section 12 of this chapter may not exceed forty-eight (48) months.

SECTION 2. [EFFECTIVE JULY 1, 2007] (a) This section applies after December 31, 2007.

(b) This act does not:

(1) apply to or abrogate a collective bargaining agreement or memorandum of understanding; or

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**(2) preclude arbitration on a provision in a collective bargaining agreement or memorandum of understanding; in effect on December 31, 2007.**

**(c) This SECTION expires July 1, 2008."**

Delete pages 2 through 5.

and when so amended that said bill do pass.

(Reference is to SB 129 as printed February 16, 2007.)

CHENEY, Chair

Committee Vote: yeas 10, nays 0.

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